

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANGELICA HERNANDEZ-SANCHEZ,

2:12-CV-1742 JCM (GWF)

Plaintiff(s).

V.

RALPHS GROCERY COMPANY.

Defendant(s).

ORDER

Presently before the court is defendant Ralph's Grocery Company's motion to dismiss for failure to prosecute. (Doc. # 15). Plaintiff Angelica Hernandez-Sanchez has not filed a response.

Defendant moves the court to dismiss the complaint for failure to prosecute pursuant to Fed. R. Civ. P. 41(d). That rule provides, in relevant part, that “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” Fed. R. Civ. P. 41(d). In addition, Local Rule 41-1 provides that “[a]ll civil actions that have been pending in this Court for more than two hundred seventy (270) days without any proceeding of record having been taken may, after notice, be dismissed for want of prosecution on motion of counsel or by the Court.” LR 41-1.

25 As part of its analysis under Rule 41(d), the court is required to consider the availability of
26 less drastic sanctions. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Although the court
27 recognizes that plaintiff has failed to comply with discovery requests, it notes that the magistrate

1 judge has imposed monetary sanctions against plaintiff in response. (*See* doc. # 19). The court finds
2 these less drastic sanctions to be sufficient, and declines to utilize its discretion to dismiss the action
3 in its entirety for failure to comply with the rules of civil procedure.

4 It does not appear that plaintiff has participated in her case in the five months following the
5 court's order granting plaintiff's counsel's motion to withdraw. (*See* doc. # 14). Although it has not
6 yet been 270 days since her last filing, plaintiff is cautioned that her continued failure to participate
7 in this litigation may result in dismissal pursuant to LR 41-1.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion to
10 dismiss for failure to prosecute (doc. # 15) be, and the same hereby is, DENIED without prejudice.

11 DATED December 3, 2013.

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UNITED STATES DISTRICT JUDGE
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